IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF JULY
TWO THOUSAND AND FOUR

-

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 15233 of 1999

-

Between:

-

Smt. Chandbee, W/o. Late Shaik Abdulla,

R/o. Hyderabad.

..... PETITIONER

AND

-

1. Defence Pension Disbursing Officer, Masab Tank, Hyderabad-28.
2. Controller of Defense Accounts (P), Allahabad, U.P.
3. Government of Andhra Pradesh, Finance & Planning (FW-Pension-II) Department, rep. By its Secretary, Secretariat, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, directing the respondents to pay the family pension to the petitioner along with life time arrears from 26-11-1994 with arrears of pension with interest.

Counsel for the Petitioner: MR.V.SRINIVAS

Counsel for Respondent Nos.1&2: MR.K.G.KRISHNA MURTHY

Counsel for Respondent No.3: G.P. for Services.

The Court made the following ORDER:

A widow of an Army person (who served Hyderabad Army and later merged in Indian Army) has been made to go from pillar to post claiming her legitimate right for family pension. In spite of the fact that pension is not a bounty but a right, and, that too, a fundamental right of a Government employee, the respondents for one reason or the other denied the pension to the petitioner.

The petitioner's husband Shaik Abdulla served Hyderabad Army. After retirement he was drawing pension. He had two wives namely, Haleema Bee and Chandbee, the petitioner herein. Some time in 1985, probably in a fit of emotion addressed a letter to the first respondent stating that he divorced his second wife Chandbee. However, by subsequent letter dated 23-11-1987, he informed first respondent that due to domestic problems by inadvertence he sent earlier letter and that he is nominating both his wives Haleema Bee and Chandbee to draw his lifetime pension. Shaik Abdulla passed away on 26-4-1994. Haleema Bee also died on 11-4-1989. In usual course of things, there would not have been any administrative or financial complications to sanction the pension to the petitioner as she is only surviving wife entitled to receive family pension. But it was not done forcing the petitioner to invoke the extraordinary jurisdiction of this court.

A counter affidavit is filed by the first respondent. The right of the petitioner to receive family pension as widow of Shaik Abdulla is not denied. It is stated that the claim of the petitioner for family pension could not be processed as there was inconsistency in the letter written by Shaik Abdulla on 20-9-1985 and subsequently on 23-22-2987. A copy of the letter dated 23-11-1987 is placed before this court. In the said communication Shaik Abdulla categorically nominated both his wives to receive family pension. This court is not able to comprehend the objection of the first respondent as found from the counter affidavit. When it was brought to the notice of

the first respondent that Haleema Bee also died, there could not have been any objection on the ground that Shaik Abdulla in one letter used his left thumb impression and in another letter used his signature. Whatever be the case, when there is no denial that wife of Shaik Abdulla is entitled for family pension and when there is no denial that Chand Bee is only wife entitled for such pension, the objection could not have come in the way of the first respondent. Therefore, the objection is not sustainable.

The Writ Petition, for the above reasons, is allowed directing the first respondent to forthwith sanction family pension of the petitioner as per entitlement and pay all arrears from 26-11-1994 within a period of four weeks from the date of receipt of a copy of this order. The respondents 1 and 2 shall pay exemplary costs to the petitioner set at Rs.5000/- (Rupees five thousand only).

_____

V.V.S. RAO, J.

29th July, 2004

Js

That the Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty ninth day of July, Two Thousand and Four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. Defence Pension Disbursing Officer, Masab Tank, Hyderabad-28.
2. Controller of Defense Accounts (P), Allahabad, U.P.
3. Government of Andhra Pradesh, Finance & Planning (FW-Pension-II) Department, rep. By its Secretary, Secretariat, Hyderabad.
4. Two CCs to G.P. for Services, High Court Buildings, Hyderabad. (OUT).

5. 2 CD copies.